

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JOHNNY E. BRINSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CV408-242
)	
OFFICER J. WILLIAMS,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On January 4, 2010, the Court ordered plaintiff Johnny Brinson to provide the Court with defendant “Officer J. Williams’s” full name so that the Marshal could complete service in this 42 U.S.C. § 1983 civil rights action. (Doc. 27.) The Marshal had earlier explained to the Court that there was some confusion in identifying the proper “J. Williams” to serve. The Court directed Brinson to use discovery to track down Williams’s full name and gave him 30 days to respond. He did not do so.

By virtue of his in forma pauperis status, plaintiff is “entitled to rely on the court officers and the United States Marshals to effect proper service, and should not be penalized for failure to effect service where such failure is not due to fault on [plaintiff’s] part.” *Fowler v. Jones*, 899 F.2d

1088, 1095 (11th Cir. 1990). And, although the time for perfecting service has expired, the Eleventh Circuit recently held that “as long as the court-appointed agent can locate the [] defendant with reasonable effort, prisoner-litigants who provide enough information to identify the [] defendant have established good cause” under Fed. R. Civ. P. 4(m) that would permit an extension of time to complete service. *Richardson v. Johnson*, ___ F.3d ___, 2010 WL 693629 at *4-5 (11th Cir. Mar. 2, 2010). Here, however, Brinson has not provided the Marshal with enough information to enable that reasonable effort, for the Marshal cannot be expected to locate a defendant identified only as “J. Williams.” A plaintiff has a duty to furnish the Marshal with more information than this—and using appropriate discovery tools, plaintiff has the ability to do so. Accordingly, this case should be **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 4(m) for failure to perfect service.

SO REPORTED AND RECOMMENDED this 12th day of April, 2010.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT of GEORGIA